

Claim Rejection - 35 U.S.C. §103

Claims 1-14 are rejected under 35 U.S.C. §103(a), as being disclosed by Ogawa et al. (EP Patent No. 1475721) further in view of Coates et al (US 2001/0047400 A1). Applicants traverse this rejection.

Applicants assert that Ogawa is not a valid prior art reference. The filing date of the present application is June 30, 2003. The publication date of Ogawa (EP1475721) is November 10, 2004. Therefore the Ogawa EP publication is not a valid prior art reference under §102 (a) (b) or (d). Although Ogawa is based on PCT application PCT/JP2003/001498, the August 21, 2003 publication of that PCT application (WO 2003/069490) also post-dates the filing date of the present application. With regard to 35 U.S.C. 102(e), there is a corresponding U.S. National Stage filing of PCT/JP2003/001498: application 10/504,940, published on July 21, 2005 as Patent Publication, US2005160197. But because WO2003069490 was not published in English, the Ogawa U.S. application does not qualify as prior art under §102(e). See MPEP § 2136.03. The original Japanese application to which PCT/JP2003/001498 claimed priority (JP 20020036056) was not published before the filing date of the present application.

Because Ogawa is not prior art to the present application, Applicants request that the rejection under 35 U.S.C. §103(a) be withdrawn, and all claims be allowed.

CONCLUSION

All rejections having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicits prompt notification of the same. Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the number set forth below.

Respectfully submitted,

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